

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anna Vaysman	Team: Team # 3	CCRB Case #: 200912428	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 07/31/2009 3:30 AM	Location of Incident: 79th Precinct stationhouse	Precinct: 79	18 Mo. SOL 1/31/2011	EO SOL 1/31/2011	
Date/Time CV Reported Wed, 08/12/2009 1:04 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 08/12/2009 1:04 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Shibu Madhu	13609	944754	079 PCT
2. POM John Christopoulos	17593	944439	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Shibu Madhu	Force: PO Shibu Madhu used physical force against § 87(2)(b)	
B.POM John Christopoulos	Force: PO John Christopoulos used physical force against § 87(2)(b)	

Case Summary

On August 12, 2009, § 87(2)(b) filed a complaint in-person at the Civilian Complaint Review Board (CCRB).

On July 30, 2009, at approximately 10:30 p.m., § 87(2)(b) was arrested and brought to the 79th Precinct for processing. Subsequently, § 87(2)(b) was re-arrested at the 79th Precinct. The following allegations resulted.

- **Allegation A – Force:** PO Shibu Madhu used physical force against § 87(2)(b) § 87(2)(g)
- **Allegation B – Force:** PO John Christopoulos used physical force against § 87(2)(b) § 87(2)(g)

Results of Investigation

Civilian Statement

Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) year old black male with black hair and brown eyes, who is 5'11" tall and weighs 165 pounds. § 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on August 27, 2009 (Encl 4A-D). On July 30, 2009, at approximately 10:30 pm, § 87(2)(b) went to his friend's house at § 87(2)(b) in Brooklyn to take a shower. § 87(2)(b)'s friend, § 87(2)(b) told him that he cannot come in and take a shower, but § 87(2)(b) went inside the apartment and started showering anyway. § 87(2)(b) called the police and when § 87(2)(b) came out of the shower, there were two officers inside the apartment; PO Shibu Madhu, his arresting officer and PO Madhu's partner, PO Konrad Zakiewicz, both assigned to the 79th Precinct. § 87(2)(b) told the officers that he had recently found the Arc of the Covenant. § 87(2)(b) was placed under arrest for § 87(2)(b) and transported to the 79th Precinct stationhouse, where PO Madhu fingerprinted § 87(2)(b) and took his photograph.

After he was processed, PO Madhu and the cell attendant, identified from the 79th Precinct roll call as PO John Christopoulos, started leading § 87(2)(b) towards a solitary confinement cell. § 87(2)(b) refused to go and started fighting the officers. § 87(2)(b) was resisting the officers by refusing to enter the cell, and he put his arms on the door of the cell, so that they could not force him inside. § 87(2)(b) also refused to walk into the cell by jamming his foot in the doorway. PO Madhu hit § 87(2)(b) with a closed fist in the area of his ribs; he did not recall which side. PO Madhu and PO Christopoulos started attacking § 87(2)(b). Both officers hit him in both eyes and in his cheeks. § 87(2)(b) was not hit anywhere else besides his face and ribs. § 87(2)(b) did not sustain any injuries. § 87(2)(b) stated that he was out of the line of vision of the other prisoners, who were in adjacent cells. There was no one else around who had a clear view of what was going on. § 87(2)(b) could not estimate how many times he was hit and he did not complain of any injuries. The officers eventually got § 87(2)(b) into the cell. He never fell to the ground.

§ 87(2)(b) was at the 79th Precinct for a couple of hours. Subsequently, an ambulance was called and he was taken to § 87(2)(b) and then Brooklyn Central Booking.

NYPD Statements:

Subject Officer: PO SHIBU MADHU

- § 87(2)(b) year old Asian male, who is 5'10" tall, 210 pounds, with black hair and brown eyes.
- On July 30, 2009, PO Madhu was assigned to conditions and worked from 5:30 pm to 2:05 am on July 31, 2009, with PO Konrad Zakiewicz. He was in uniform and assigned to a marked RMP. PO Madhu then worked overtime from 2:05 am to 6:00 am, at the 79th Precinct stationhouse.

Memo Book

PO Madhu had the following entries in his memo book (Encl 5A-D). On July 30, 2009, at 10:29 pm, § 87(2)(b) was arrested at § 87(2)(b) for § 87(2)(b). On July 31, 2009, at 2:45 am, PO Madhu was attempting to fingerprint § 87(2)(b). At 3:15 am, § 87(2)(b) refused to go back inside his cell. At 3:30, § 87(2)(b) was re-arrested for § 87(2)(b). At 4:00 am, PO Madhu started processing the paperwork for the new arrest. At 6:00 am, PO Madhu was examined by EMS, stemming from the incident with § 87(2)(b).

Arrest Reports/Criminal Complaint Report

On July 30, 2009, at 10:29 pm, § 87(2)(b) was arrested for § 87(2)(a) 160.50 at § 87(2)(b) in Brooklyn, by PO Shibu Madhu (Encl 13A-D). The narrative indicated, "§ 87(2)(a) 160.50".

On July 31, 2009, at 3:30 am, § 87(2)(b) was again arrested at the 79th Precinct stationhouse for § 87(2)(b). The narrative indicated, "At t/p/o, § 87(2)(b) was printed and photographed for arrest number § 87(2)(b). PO Madhu and the cell attendant, PO John Christopoulos, shield number 17593, were trying to place § 87(2)(b) back into the cell and he refused to go back and started fighting. § 87(2)(b) tried to pin PO Christopoulos against the cell. During the struggle, PO Christopoulos suffered a laceration to his left middle finger and was pushed into the cell's metal bar, causing pain to his back. PO Madhu suffered pain to his right hand. § 87(2)(b) refused to be handcuffed and refused to go back into the cell by holding the cell bar with his right hand. Sgt. Cusack was notified and Cpt. Lipetri was notified and on scene."

CCRB Testimony

PO Madhu was interviewed at the CCRB on November 10, 2009 (Encl 6A-B). On July 30, 2009, at approximately 10:00 pm, PO Madhu responded to § 87(2)(b) in Brooklyn, in report to a trespasser. The current tenant, § 87(2)(b), had called the police because § 87(2)(b) was taking a shower and refusing to leave the premises. PO Madhu and his partner, PO Zakiewicz, arrested § 87(2)(b) and transported him to the 79th Precinct stationhouse.

On July 31, 2009, at approximately 2:45 am, PO Madhu fingerprinted § 87(2)(b) in connection with his arrest. Upon attempting to take him back to the holding cell area, § 87(2)(b) began resisting. PO Madhu and PO Christopoulos were attempting to place § 87(2)(b) into an individual cell, as he was being detained in the precinct overnight. The rest of the individual cells were all empty at the time and the hallway was empty. § 87(2)(b) started screaming at PO

Madhu to leave the Arc of the Covenant alone. § 87(2)(b) grabbed hold of the cell bars in order to prevent PO Madhu from placing him inside. PO Madhu and PO Christopoulos attempted to pry § 87(2)(b)'s hands away from the cell bars. § 87(2)(b) then pushed PO Christopoulos into the cell bars, using his left forearm and the latter injured his back. § 87(2)(b) then attempted to run down the hall, but PO Madhu and PO Christopoulos prevented him from doing so. The only force that was used against § 87(2)(b) was compliance grips, which are basically designed to gain compliance such as trying to get his arms behind his back in order to get him handcuffed. Further, all of the force used against § 87(2)(b) was intended to overcome his resistance and to prevent him from escaping. PO Madhu did not hit § 87(2)(b) with a closed fist in the ribs. PO Madhu did not hit § 87(2)(b) in the checks or eyes. PO Madhu did not hit § 87(2)(b) anywhere in the face and he did not see PO Christopoulos do that. PO Madhu injured his right hand during the struggle. In about two or three minutes, § 87(2)(b) was handcuffed and placed in the cell. § 87(2)(b) was eventually taken to the hospital as an emotionally disturbed person, but PO Madhu did not know which one. PO Madhu went line-of-duty following the incident, stemming from the injury to his back and finger.

Subject Officer: PO JOHN CHRISTOPOULOS

- § 87(2)(b) year old white male, 5'10" tall, 195 pounds, blond hair and green eyes.
- On the date of the incident, PO John Christopoulos was assigned to be the cell attendant at the 79th Precinct. He worked in uniform from 11:15 pm on July 30, 2009 to 7:50 am, on July 31, 2009.

Memo Book

PO Christopoulos did not have any entries in his memo book regarding the incident (Encl 7A-B).

CCRB Testimony

§ 87(2)(g)

During the struggle, § 87(2)(b) swung his arm across PO Christopoulos's throat, essentially choking him for a few seconds. PO Christopoulos injured his back as a result of § 87(2)(b) pressing his forearm against his throat, thereby throwing him into the cell bars and choking him. PO Christopoulos then punched § 87(2)(b) twice in the right side of his ribs, so that he would drop the forearm that he still had against his neck. As soon as PO Christopoulos hit § 87(2)(b) in the ribs, the latter dropped his forearm. The struggle ended when PO Christopoulos punched him and § 87(2)(b) dropped his arm from PO Christopoulos's throat. PO Christopoulos and PO Madhu were then able to subdue § 87(2)(b) and place him back into the cell. The struggle lasted for about three minutes. PO Christopoulos had an MRI done and x-rays taken of his lower back. PO Madhu also sustained an injury to his finger, but PO Christopoulos did not recall what it was. PO Christopoulos did not recall if § 87(2)(b) was saying anything during the struggle. There was no other physical force used against § 87(2)(b). PO Christopoulos did not see PO Madhu hit § 87(2)(b) in the ribs. PO Christopoulos did not hit § 87(2)(b) in the eye or the cheek and he did not see any other officer do that. § 87(2)(b) did not have any injuries. However, PO Christopoulos recalled that § 87(2)(b) went to the hospital, but he did not recall which hospital. There were no other officers that were called to the scene.

Medical Records

§ 87(2)(b) was admitted at § 87(2)(b) on § 87(2)(b). § 87(2)(b)'s physical exam was limited because he was uncooperative and refused to make any explanations

to medical personnel. § 87(2)(b) was brought in by ambulance for evaluation of his irrational behavior. § 87(2)(b) was leg shackled and had abrasions on his right and left arm. § 87(2)(b) was under arrest and became combative and uncooperative after being fingerprinted; he refused to re-enter the cell. § 87(2)(b) was diagnosed with an abrasion to his wrists and was advised to apply antibacterial ointment to the scrape (Encl 10A-T).

NYPD Documents

AIDED Report – PO Madhu

The narrative indicated, “§ 87(2)(b) (Encl 11A-J). § 87(2)(b) forced PO Madhu against the cell, causing strain to his back. PO Madhu’s finger was forced against the cell bars, thereby causing a minor laceration and swelling.

AIDED Report – PO Christopoulos

The narrative indicated, “§ 87(2)(b) (Encl 11A-J). A struggle ensued, during which, PO Christopoulos suffered an injury to his right hand and swelling to his knuckles.

Line-of-Duty Injury Report

The report indicated that on July 31, 2009, at 3:30 am, PO Madhu injured his right hand while attempting to place § 87(2)(b) back inside the cells (Encl 15A). § 87(2)(b) became violent and struggled with the officers.

Firearms Discharge Report/Assault Report Worksheet

The report indicated that the self-defense technique used was punching and no dangerous weapons were involved (Encl 16A). The narrative indicated, “At t/p/o, while PO Madhu was attempting to place § 87(2)(b) back into the cell, the latter became violent and refused to go back inside. A struggle ensued, during which, PO Madhu suffered an injury to his right hand. PO Madhu had swelling around his knuckles.

Command Log

The command log indicated that § 87(2)(b) was brought into the 79th Precinct stationhouse at 10:42 pm, following his arrest at § 87(2)(b) in Brooklyn (Encl 18A). § 87(2)(b)’s condition was apparently normal. At § 87(2)(b) § 87(2)(b) was transported to § 87(2)(b) via ambulance.

Arrest Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of February 19, 2010, with regard to the incident (Encl 19A).

Civilian’s Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian's CCRB History

- § 87(2)(b)

Subject Officer's CCRB History

- PO Shibu Madhu has been a member of the service for two years and there are no substantiated CCRB allegations against him (Encl 1A-B).
- PO John Christopoulos has been a member of the service for two years and there are no substantiated CCRB allegations against him (Encl 1A-B).

Conclusion

Identification of Subject Officers

PO Shibu Madhu recalled interacting with § 87(2)(b) on the date of the incident. PO John Christopoulos recalled interacting with § 87(2)(b) on the date of the incident.

Investigative Findings and Recommendations

Allegation A – Physical Force: PO Shibu Madhu used physical force against § 87(2)(b)

Allegation B – Physical Force: PO John Christopoulos used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO Madhu hit him in the right side of his ribs and that both PO Madhu and PO Christopoulos hit him in the eyes and cheeks. § 87(2)(b) admitted that he refused to go back inside the cell and started fighting with the officers. § 87(2)(b) stated that he put his arms on the door of the cell, and refused to walk inside by jamming his foot in the doorway. PO Madhu indicated that § 87(2)(b) pushed PO Christopoulos into the cell bars and attempted to run away from the officers. PO Madhu sustained an injury to his hand during the struggle. PO Christopoulos indicated that § 87(2)(b) swung his arm across his throat, essentially choking him. PO Christopoulos punched § 87(2)(b) in the ribs twice, so that the latter would drop his forearm. § 87(2)(b)'s medical records did not show any injuries consistent with being punched in the eyes or cheeks several times. § 87(2)(b) had abrasions on his wrists and ankles because he had to be leg shackled. New York State Penal Law, § 35.30.5, indicates, "[A] police officer or peace officer who is charged with the duty of guarding prisoners in a detention facility [...] may use physical force when and to the extent that he or she reasonably believes such force to be necessary to prevent the escape of a prisoner from a detention facility or from custody [...]" (Encl 1)." § 87(2)(g)

Team: _____

Investigator: _____ : _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date